IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Criminal Appeal No.362-SB of 1995
Date of decision: 26.03. 2007

Sukhdev Singh and others.

-----Appellants.

Vs.

The State of Punjab

-----Respondent.

CORAM:- HON'BLE MR JUSTICE ADARSH KUMAR GOEL

Present: Mr. Bipan Ghai, Advocate
for the appellants.

Mr. M.S. Sidhu, Sr. DAG, Punjab.

The appellants question their conviction and sentence under Section 304-B IPC. They stand sentenced to undergo RI for seven years.

Case of the prosecution is that the deceased Harjinder Kaur was married to Ranjit Singh, accused about 13 months prior to the occurrence. Her father Nachhattar Singh (PW-2) gave sufficient dowry. After 1½ month of marriage, all the members of in-laws family of the deceased started giving beatings to her asking for more dowry. After about three months of the marriage, she was turned out of the matrimonial home on account of demand for jeep, T.V. and other articles. She disclosed these facts to her parents. Thereafter,

Nachhattar Singh (PW-2) contacted Surjit Singh and Surjan Singh (PW-3), took them to the village of the in-laws of the deceased and talked to Ranjit Singh, accused and his parents Sukhdev Singh, accused and Bhajan Kaur, accused. He assured that he will give more dowry after the next harvest. About a month prior to the occurrence, the deceased was left in her matrimonial home. On his visit to her matrimonial home, thereafter, PW-2 Nachhattar Singh again came to know that she was being given beatings. He assured the deceased that he will again come back after 5-7 days and would talk to them. On 7.10.1993, when Nachhattar Singh went to enquire about the deceased, he found her dead. Her death was on account of administering of poison or was otherwise unnatural. PW-2 Nachhattar Singh made a statement before Hardev Singh (PW-5), SHO, Police Station Ghal Khurd at 7.30 A.M., which led to recording of FIR (Ex.PF/2) at 8.30 A.M. Hardev Singh (PW-5) conducted investigation. Post-mortem examination was conducted by Dr. M.M.S Dhillon, PW-1 on 7.10.1993 at 3 P.M. According to him, cause of death was consumption of organo phosphorus insecticide, which was sufficient to cause death in the ordinary course of nature. Probable time between death and post-mortem was 12-24 hours. The accused were arrested on 9.10.1993. It was mentioned that apart from the accused/ appellants, Karamjit Kaur, sister-in-law of husband of the deceased, Baljit Singh, brother of husband of the deceased were also proceeded against, but they stand acquitted.

In support of its case, the prosecution examined PW-1 Dr. M.M.S. Dhillon, PW-2 Nachhattar Singh, PW-3 Surjan Singh, PW-4 Sunder Singh, Draftsman and PW-5 Inspector Hardev Singh.

The accused denied the allegations of the prosecution and also stated that Ranjit Singh, husband of the deceased was living separately from his parents. They inter-alia examined DW-2 Sant Singh, Ex-Sarpanch to prove that Ranjit Singh was living separately from his parents and other family members. He deposed that on 3.10.1993, alongwith other villagers, he was present when writing (Exh.DA) was prepared in connection with the partition in the presence of Nachhattar Singh (PW-2). Thereafter, Ranjit Singh and his wife were separated from other members of the family. He also deposed that there was no harassment for dowry. DW-3 Bhag Singh also corroborated the said version.

After considering the evidence on record, the trial Court acquitted Karamjit Kaur and Baljit Singh, sister and brother of Ranjit Singh, but convicted and sentenced Ranjit Singh and his parents Sukhdev Singh and Bhajan Kaur. The main basis for the findings of the trial Court is the evidence of PW-2 Nachhattar Singh, father of the deceased and PW-3 Surjan Singh, to the effect that the deceased was subjected to harassment for dowry soon before her death and that she died unnatural death within 13 months of her marriage. For 5/6 months, she had to remain in her parents' house and she resumed cohabitation few months before her death, on an assurance of Nachhattar Singh that he will give more dowry.

I have heard learned counsel for the parties and perused the record.

Only contention raised on behalf of the appellants is that Sukhdev Singh, accused was 77 years of age and Bhajan Kaur, accused was 72 years of age and that they had separated from their son Ranjit Singh, husband of the deceased and thus, it is Ranjit Singh, husband of the deceased, who alone could be responsible for the offence. He referred to evidence of DW-2 Sant Singh, Ex-Sarpanch to the effect that Ranjit Singh, accused and his wife were separated from the other family members in mess and cultivation. His version is also corroborated by Bhag Singh, DW-3.

It is clear from the record that the deceased was married 13 months prior to the occurrence. She died in circumstances other than normal. The evidence of PW-2 Nachhattar Singh, father of the deceased and PW-3 Surjan Singh, who is an independent witness, is categorical that the deceased was subjected to harassment for dowry and was turned out of the matrimonial home. Even though she resumed cohabitation, harassment for dowry continued. The evidence of the said witnesses is forthright and truthful and no doubt whatsoever arises about the veracity of the same. Their evidence remained unshaken in the cross-examination. They had no reasons to falsely implicate the accused persons. Version given by Nachhattar Singh is corroborated by his version, at the earliest opportunity, which finds mentioned in the FIR (Exh.PF/2). Minor discrepancies are usual and cannot be given much significance. The plea of the accused that the deceased killed herself as she was disturbed on account of

partition between the brothers is without any basis. Death of the deceased is, thus, proved to have taken place on account of harassment for dowry and the offence of dowry death is clearly made out.

The question, however, remains about involvement of Sukhdev Singh and Bhajan Kaur. They have led defence evidence that they had been duly separated and even if they had raised demand of dowry initially, but after separation, they did not raise any fresh demand and the husband and wife were living separately. There can, thus, be two views about demand of dowry by the said two accused soon before the death. However, demand of dowry by them on earlier occasion is clearly proved.

In view of above, conviction of Sukhdev Singh and Bhajan Kaur under Sectin 304-B IPC is set-aside and is converted to conviction under Section 498-A IPC, for which, they are sentenced to undergo RI for the period of sentence already undergone, which is said to be two years each. Conviction and sentence awarded to the appellant Ranjit Singh is upheld and his appeal is dismissed.

March 26, 2007 (**ADARSH KUMAR GOEL)**
ashwani **JUDGE**